IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 112 OF 2007
WITH
CIVIL APPLICATION NO. 346 OF 2007
IN
S.A. NO. 112/2007

Dnyanadeo Laxman Waghmare .. Appellants.
since deceased by LRs: (Ors.Plaintiffs)
1.a. Sampat Dnyanadeo Waghmare & Ors.

V/s.

1. Late Dagadu Bhau Shinde, .. Respondents.
since deceased by LRs:
a) Laxmi Dagadu Shinde & Ors.

Mr.Chandrakant N. Chavan for the Appellants.

CORAM : S. A. BOBDE, J.

DATED : 21st AUGUST, 2007.

P.C. :-

. This second appeal is against concurrent findings of both the courts below, dismissing the appellant's suit for injunction. Both the courts below have found that the appellant is not in possession of the suit property. The lower appellate court in judgment referred in the appeal, on the basis of the evidence on record, has negatived the appellant's contention that he is in possession of the suit property. It was contended by the learned cousnel for

the appellant that the courts below failed to see that the sale deed executed by the defendant No.1 in favour of the defendant No.2 has been set aside. However, that does not establish the contention of the appellant that he must, therefore, be held to be in possession. It was also urged by the learned counsel for the appellant that the appellant was a tenant and therefore, ought to have been held in possession. However, the finding of the court is that he is not in possession, in any case after the year 1980. The appellate court has observed that the revenue record shows that in the year 1996 and 1997 the suit property was cultivated by the owner himself and the name of the tenant was bracketed.

2. In any case the suit has been dismissed on the ground that the appellant has not been found in possession. This is a pure question of fact based on appreciation of evidence and it does not give rise to any substantial question of law.

3. The appeal is dismissed. Hence, the civil application also does not survive.

(S.A.BOBDE,J.)

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